

(e) “U” Non-Immigrant Visa Certification

Purpose:

The U Nonimmigrant Status (or “U Visa”) provides temporary immigration benefits to victims of certain qualifying crimes who assist law enforcement in the investigation and/or prosecution of those crimes. U Nonimmigrant Status applicants must meet specific eligibility criteria and request law enforcement certification from a “Certifying Agency”. The purpose of these guidelines is to offer standard operating procedures for the U Nonimmigrant Status law enforcement certification review process for the Harris County District Attorney’s Office.

Authorities and References

- Tool Kit For Law Enforcement Use Of The U-Visa, The National Immigrant Victims’ Access to Justice Partnership, A joint project of Legal Momentum and the Vera Institute of Justice Funded by the U.S. Department of Justice, Bureau of Justice Assistance
- Immigration Relief for Crime Victims: The U Visa Manual (March 2010), Prepared by the NYATN Legal Subcommittee
- U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement, Prepared by the Department of Homeland Security (DHS).

Policy:

Upon receipt of a request for an I-918 Supplement B, U Nonimmigrant Status Certification, the Assistant District Attorney will notify the agency’s designated Certifying Official(s) about any/all requests. If a complainant inquires or requests a U Nonimmigrant Status Certification, the Assistant District Attorney will refer the complainant to the Victim/Witness Division. Assistant District Attorneys, Investigators, Victim Assistance Coordinators, and Caseworkers may not discuss the U Nonimmigrant Status in order to gain a victim’s cooperation or make promises regarding an individual’s ability to

obtain U Nonimmigrant status.

NOTE: A Certifying Agency is a Federal, State or local law enforcement agency, prosecutor, judge or any other authority that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity. This also includes agencies that have criminal investigative jurisdiction in their respective areas of expertise, including, but not limited to, child protective services, the Equal Employment Opportunity Commission and the Department of Labor. See 8 CFR § 214.14(a) (2)

Procedures:

Certification Review Process

The purpose of the I-918 Supplement B, U Nonimmigrant Status Certification form is to certify that the applicant was a victim of a qualifying crime, the applicant has specific knowledge and details of crime; and has been, is being, or is likely to be helpful in the investigation and/or prosecution of the qualifying crime. In order to thoroughly evaluate and determine the merit of the request for law enforcement certification, the Harris County District Attorney's Office has established a certification review process which includes the following:

All requests from U Nonimmigrant status applicants and/or representing attorneys will be referred to the designated certifying official(s). The certification process has been delegated to the Victim/Witness Division of the Harris County District Attorney's Office. The Victim/Witness Division will work closely with the Assistant District Attorney in consideration of certification. Upon receipt, the requests should contain the following:

- **The U Nonimmigrant Status application.** This application requires an applicant to include law enforcement certification by means of the I-918 Supplement B, U Nonimmigrant Status Certification form. The form I-918, Petition for U Nonimmigrant Status must be completed by a representing attorney. No request for certification will be accepted

unless it is made on the proper U.S. Citizenship and Immigration Services form.

- The petition should include and show the applicant is a victim of certain criminal activity. This should include the case number assigned to the case filed through the Harris County District Attorney's Office.
- The petition should include all relevant reports and findings. For example, trial transcripts or rulings from a criminal case, court documents, news articles, police reports, medical records, ambulance reports, subpoenas, and/or affidavit(s) of victim.
- The applicant/family member who is applying must provide the following:
 - 1) Proof of relationship between the U-visa victim applying and each family member, if applicable.
 - 2) Birth certificate, if applicable.
 - 3) Marriage license, if applicable.

The certifier does not need to make a determination on the nature of the harm suffered by the petitioner. This will be determined by USCIS during the adjudication. The certifier's main responsibility is to certify that a crime has occurred, that the victim/applicant possesses information, and that the individual has been, is being, or is likely to be helpful. – Per USCIS, July 5, 2011 email.

Within three months of receipt of the application from the applicant, the certifying official will take action to indicate the office's approval or denial of the law enforcement certification request and sign the certification or denial letter. The certifying official will notify the Assistant District Attorney assigned to the case in question of all certification requests received. The certifying official will form a decision based on the recommendation and input of the Assistant District Attorney. Once the certifying official receives all necessary information he/she will determine if a certification will be provided. The certifying agency's certification is entirely discretionary and based on federal law, national policy guidelines, and recommendation of the Assistant

District Attorneys.

The Harris County District Attorney's Office recognizes the importance of expeditious processing and timely responses. The District Attorney's Office anticipates the review process will vary depending upon the complexity of the case and overall volume of U Visa Certification requests. At this time the Harris County District Attorney's Office anticipates it will take approximately three months to review the request for certification.

The certifying official will forward the completed U Nonimmigrant Status packet and approval/denial letter to the applicant's attorney.

If the applicant is a victim of a crime where charges have not been filed through the Harris County District Attorney's Office, the certifying official will refer the applicant to the appropriate agency responsible for certification.

The certifying official will maintain a database of all I-918B requests and denials/approvals.

Adjustment of Status

Eligible recipients of U Nonimmigrant status may later apply for adjustment of status and request an additional certification. The certifying official will verify applicants continued cooperation with the prosecution of the case.

Prosecutor's Disclosure Obligations

If a request for certification of an I-918, Supplement B, U Nonimmigrant Status is submitted to the Harris County District Attorney's Office, the Assistant District Attorney shall disclose the entire application to defense counsel UNLESS notice will place the applicant/victim at risk. If notice places the applicant at risk, the Assistant District Attorney shall contact his/her Division Chief for direction regarding disclosure obligations.

Case Disposition

The Harris County District Attorney's Office will review only cases where charges have been filed and are pending (this will include cases on appeal, deferred adjudication and probation), or disposed cases up to three years past the case disposition date.

Amended April 1, 2014

(f) Deleted, February 28, 2014

This section previously discussed the Bilingual Incentive Pay Program, which no longer exists.

(g) Anatomical Dolls

The Victims' Rights Division provides anatomically correct dolls to assist prosecutors in the interview and testimony of child abuse cases.

(h) Transportation Assistance

The Victims' Rights Division can assist complainants with transportation to and from court by providing a metro card. The Metro Pass is available to complainants and is a \$2 money card.

3.19. CRIME VICTIMS RIGHTS

The 1985 Texas Legislature passed the first victims' bill of rights. The rights are enumerated in Chapter 56 of the Code of Criminal Procedure, and have been expanded in subsequent legislative sessions. Among the rights afforded victims of violent crimes are the **right to be informed about court settings** and procedures in the criminal justice system, the right to apply for Crime Victims' Compensation benefits and the right to complete a Victim Impact Statement (VIS). The lead prosecutor in any case must ensure that the victim is timely notified of any court setting in the victim's case.